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April 25, 2008

DEPARTMENT OF ENERGY
OFFICE OF HEARINGS AND APPEALS

Hearing Officer's Decision

Name of Case: Personnel Security Hearing

Date of Filing: December 5, 2007

Case Number: TSO-0582

This Decision concerns the eligibility of XXXXXXXXXXXX (hereinafter "the Individual") for access authorization. This decision will consider whether, based on the testimony and other evidence presented in this proceeding, the Individual's application for access authorization should be granted. For the reasons detailed below, it is my decision that the Individual's access authorization request should be denied.

I. APPLICABLE REGULATIONS

The regulations governing the Individual's eligibility are set forth at 10 C.F.R. Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." Under Part 710, the Department of Energy (DOE) may suspend an individual's access authorization where "information is received that raises a question concerning an individual's continued access authorization eligibility." 10 C.F.R. § 710.10(a). After such derogatory information has been received and a question concerning an individual's eligibility to hold an access authorization has been raised, the burden shifts to the individual to prove that "the grant or restoration of access authorization to the individual would not endanger the common defense and security and would be clearly consistent with the national interest." *See* 10 C.F.R. § 710.27(a). The ultimate decision concerning eligibility is a comprehensive, common-sense judgment based on a consideration of all relevant information, favorable and unfavorable. 10 C.F.R. § 710.7(a).

II. BACKGROUND

The Individual is an employee of a DOE contractor. In 2006, his employer requested that the Individual be granted a security clearance. As part of the Local Security Office (LSO) investigation, the Individual completed and submitted an electronic Questionnaire for National Security Positions (QNSP) in October 2006. Prompted in part by the answers the Individual provided in the QNSP, the LSO conducted a Personnel Security Interview with the Individual in

May 2007. As a result of its investigation, the LSO discovered that the Individual had been diagnosed as suffering from a mental illness, Bipolar Disorder, and had bouts of excessive use of alcohol. Additionally, the Individual admitted in his QNSP that he had used hashish and marijuana at various times during his life.

Given these findings, the LSO referred the Individual to a DOE-contractor Psychiatrist (DOE Psychiatrist). The DOE Psychiatrist conducted a two-and-one-half hour examination of the Individual. In her August 2007 report (Report), the DOE Psychiatrist found that the Individual suffers from “Bipolar Disorder, Type I, most recent episode manic” and that this illness could cause a significant defect in judgment and reliability. Additionally, the DOE Psychiatrist found that the Individual suffered from “Alcohol Dependence, in early full remission” and “Cannabis Dependence, in sustained full remission” and that either illness could cause a significant defect in judgment and reliability.

In October 2007, the LSO informed the Individual in a Notification Letter that the diagnoses of Bipolar Disorder, Alcohol Dependence and Cannabis Dependence referenced in DOE Psychiatrist’s Report constituted derogatory information that created a substantial doubt as to his eligibility for an access authorization under 10 C.F.R. § 710.8(h) (Criterion H). Additionally, the diagnosis of Alcohol Dependence along with the Individual’s admissions in the PSI, as to his prior misuse of alcohol constituted derogatory information under 10 C.F.R. § 710.8(j) (Criterion J). Lastly, the Individual’s use and purchase of illegal drugs raised concerns under 10 C.F.R. § 710.8(k) (Criterion K).¹ October 2007 Letter from Manager, Personnel Security Division, to Individual (Notification Letter).

I held a hearing in this matter. At the hearing, DOE presented one witness, the DOE Psychiatrist. The Individual offered his own testimony. The DOE submitted 11 exhibits (Exs. 1-11) for the record. The Individual submitted one exhibit (Ind. Ex. A).²

III. FACTUAL FINDINGS

The facts in this case are essentially not in dispute. A brief summary is provided below.

¹ Criterion H refers to derogatory information that indicates that an individual has “[a]n illness or mental condition of a nature which, in the opinion of a psychiatrist or licensed clinical psychologist, causes or may cause, a significant defect in judgment or reliability.” 10 C.F.R. § 710.8(h). Criterion J refers to information that an individual has “[b]een, or is, a user of alcohol habitually to excess, or has been diagnosed by a psychiatrist or a licensed clinical psychologist as alcohol dependent or as suffering from alcohol abuse.” 10 C.F.R. § 710.8(j). Criterion K refers to information indicating that an individual has “[t]rafficked in, sold, transferred, possessed, used, or experimented with a drug or other substance listed in the Schedule of Controlled Substances . . . (such as marijuana, cocaine, amphetamines, barbiturates, narcotics, etc.)” 10 C.F.R. § 710.8(k).

² At the closing of the hearing, I held the record open in this matter to offer the Individual the opportunity to submit information or testimony from the psychiatrist currently treating his Bipolar Disorder (Treating Psychiatrist) as well as testimony from his wife. The Individual submitted a written report from the Treating Psychiatrist on March 17, 2008. I closed the record in this case on that date.

A. Alcohol Use

The Individual first started to consume alcohol at age 16. Ex. 6 at 12. At age 18, the Individual would consume alcohol on a nightly basis. Ex. 6 at 12; Ex. 11 at 108. After a year of daily consumption of alcohol, the Individual, then at age 19, decided to stop consuming alcohol, motivated in part by a fear that he was becoming an alcoholic. Ex. 5 at 12; Ex. 11 at 106; Ex. 6 at 12. In 1986, at age 23, the Individual began to consume alcohol again. Until 1991, the Individual would consume enough alcohol to become intoxicated a couple of times a month and on occasion would consume as much as 20 containers of beers during a day. Ex. 11 at 107; Ex. 6 at 12. During this period, the Individual experienced hangovers. Ex. 11 at 107. In 1991, the Individual's alcohol consumption began to decrease. From 1991 to 1999, the Individual was intoxicated three times. Ex. 11 at 110. In the period 1999 to 2000, the Individual became intoxicated on a dozen occasions. Ex. 11 at 111. After 2000, the Individual's consumption of alcohol again decreased. The last time the Individual became intoxicated was in 2003. In the first half of 2006, the Individual would consume two alcoholic drinks approximately twice a week. Ex. 6 at 12. Between July 2006 and February 2007, the Individual consumed a total of three alcoholic drinks. Ex. 6 at 12. The Individual's last consumption of alcohol occurred in February 2007. His decision to cease using alcohol was motivated by a severe headache that the Individual experienced from the interaction of the wine and a medication he was taking for treatment of his Bipolar Disorder. Ex. 11 at 112-13; Ex. 6 at 12.

The Individual was evaluated by the DOE Psychiatrist in May 2007. In her Report, the DOE Psychiatrist diagnosed the Individual as suffering from "Alcohol Dependence, in sustained full remission." Ex. 6 at 25. Using the criteria contained in the Diagnostic and Statistical Manual of Mental Disorders, 4th edition – Text Revision (DSM-IV-TR), the DOE Psychiatrist found that the Individual had met the following criteria for Alcohol Dependence at various times in his life:

<u>DSM-IV Criterion No.</u> ³	<u>Period When Criterion was Met</u>
1	1979-1982
4	1986-2006
5	1981-1982
6	1979-1988
7	2004-February 2007

Ex. 6 at 20.

The DOE Psychiatrist's Report stated that with regard to Criterion 1, the Individual admitted during her examination that he had developed a tolerance to alcohol during the period where he was consuming alcohol heavily when he was younger. Ex. 6 at 13, 18. The Individual's early attempt to stop consuming alcohol at age 19 and subsequent resumption of alcohol consumption

³ The relevant DSM-IV-TR criteria are the following: (1) tolerance for alcohol, (4) persistent desire to cut down or control alcohol use, (5) a great deal of time was spent in activities necessary to obtain alcohol, (6) important social, occupational, or recreational activities are given up or reduced because of alcohol use, and (7) alcohol use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by alcohol. Ex. 6 at 19. For a diagnosis of alcohol dependence to be made under the DSM-IV-TR criteria, three or more of the criteria must be met in the same 12-month period. Ex. 6 at 18.

at age 23, along with bouts of intoxication thereafter were cited as evidence that he met Criterion 4. Ex. 6 at 18-19. The DOE Psychiatrist also cited the Individual's history of being "stoned" daily from marijuana from age 18 through age 25, along with his admission that he used marijuana and alcohol together, to support her conclusion that he met Criterion 5 in 1981 and 1982. Ex. 6 at 19. The Individual met Criterion 6, in the DOE Psychiatrist's opinion, because he admitted in her examination that he "alienated everyone while he was in school before college" and that he missed family time as a result of his alcohol and marijuana usage. Ex. 6 at 19. With regard to Criterion 7, the DOE Psychiatrist noted that the Individual "could not deny" that he had been warned about consuming alcohol by a family physician and warned about alcohol and marijuana use by a psychiatrist between the period 2004 to 2006. Additionally, medical records indicated that the Individual realized that his Bipolar Disorder had been worsened by alcohol by May 2005. Ex. 6 at 19.

B. Illegal Drug Use

The Individual's first use of marijuana occurred at approximately 11 years old when he was in the fifth grade. Ex. 6 at 11. The Individual's next use of marijuana occurred when he was 15 or 16 years old, and from that time he used marijuana on a daily basis until age 25. Ex. 6 at 11. During this period, the Individual's consumption rose from "one or two puffs a day" to "10 joints" of marijuana per day. Ex. 6 at 11. During ages 16 to 18, the Individual experimented with mushrooms and hashish. Ex. 6 at 11. In high school, the Individual purchased marijuana and hashish. Ex. 11 at 87 and 97. At age 25, the Individual stopped using marijuana because he was a father of a three-year old son. Ex. 6 at 11; Ex. 11 at 66-67.

At age 34 (1997), the Individual again began to use marijuana. Ex. 11 at 67. From 1997 to 1999, he smoked marijuana on approximately 5 to 10 occasions. Ex. 6 at 11. In 1999, the Individual stopped using marijuana and abstained until 2001. His use of marijuana increased during the period 2001 to 2004. Ex. 11 at 68. The Individual estimated that from 2000 to 2006 he used marijuana approximately 200 times. Ex. 10 at 28. His last use of marijuana was in July 2006. Ex. 11 at 74. He stopped using marijuana in part on advice of a physician who earlier informed him that use of marijuana would make control of his Bipolar Disorder more difficult. Ex. 6 at 11.

In her Report, the DOE Psychiatrist found that the Individual met the following DSM-IV-TR criteria for Cannabis⁴ Dependence:

⁴ Cannabis is a term that refers to marijuana (cannabis sativa) and other drugs produced from that plant.

<u>DSM-IV Criterion No.⁵</u>	<u>Period When Criterion was Met</u>
1	1979-1986
4	1988-2006
5	1979-1988
6	1979-1988
7	2004-July 2006

Ex 6 at 20.

In her Report, the DOE Psychiatrist found that the Individual's admission that he had experienced tolerance with regard to the use of marijuana was sufficient for her to conclude that the Individual met Criterion 1 during 1979-1986. As for Criterion 4, the DOE Psychiatrist found that the Individual had decided to cease using marijuana when he realized he was "becoming too 'stoned' to attend to his fatherly duties" but that he eventually returned to using marijuana. Ex. 6 at 19. She also cited the Individual's admission that, in May 2005, he reported to his physician that he felt better when he did not use marijuana. She went on to say in her Report, "[c]ommon sense dictates that he planned to stay away from smoking marijuana at that time but yet still used marijuana until shortly before 2006." Ex. 6 at 19. Consequently, she found that the Individual had met Criterion 4 from 1997 to 2006. She also found, with regard to Criterion 5, that the Individual admitted that he had been "stoned" daily from his high school years to about age 25, and thus the Individual met this criterion from 1979 to 1988. Criterion 6 was met by the Individual's admission that he had "alienated everyone" while he was in school (before college) and that he was excessively using marijuana and alcohol during the ages of 16 through 25 (1979-1988). The DOE Psychiatrist deemed that the Individual met Criterion 7 because he could not deny that a psychiatrist had warned him about using marijuana; in addition, medical records indicated that the Individual realized that marijuana made his Bipolar illness worse. Ex. 6 at 19.

C. Bipolar Illness

At age 22 or 23, the Individual experienced periods of being "up" and would remain awake for as long as three days. Ex. 6 at 10. The Individual experienced depression in 2002 and sought the advice of a counselor. Ex. 11 at 9; Ex. 6 at 3. The counselor referred the Individual to a psychiatrist who ultimately diagnosed the Individual as suffering from "Bipolar Disorder, type II." Ex. 6 at 3. He was then prescribed a number of mood-stabilizing medications. Ex. 6 at 3. Upon moving to another city in 2004, the Individual continued treatment with another psychiatrist. This psychiatrist's medical records indicate that the Individual had experienced "manic states" and periods of depression. Ex. 7 (7/2004 Initial Exam Report). The Individual reported to the new psychiatrist that he was experiencing fatigue and excessive sleeping and that, after he had lowered the dose of his medication, he began to have racing speech and thoughts.

⁵ The relevant DSM-IV-TR criteria are described as the following; (1) tolerance for cannabis, (4) persistent desire to cut down or control cannabis use, (5) a great deal of time was spent in activities necessary to obtain cannabis, (6) important social, occupational, or recreational activities are given up or reduced because of cannabis use, and (7) cannabis use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by cannabis. Ex. 6 at 19. For a diagnosis of cannabis dependence to be made under the DSM-IV-TR criteria, three or more of the criteria must be met in the same 12-month period. Ex. 6 at 18.

This psychiatrist diagnosed him as suffering from “Bipolar Disorder, mixed” and again prescribed mood-stabilizing drugs. Ex. 7 (Initial Exam Report 7/12/2004).

In January 2006, the Individual entered a hospital because of his concern over having suicidal thoughts. Ex. 11 at 22-23; Ex. 7 (Discharge Instructions). As of the date of the hearing, the Individual was regularly visiting his current treating psychiatrist and complying fully with his current regime of mood-stabilizing drugs. Since his 2006 hospitalization, the Individual has not experienced any problems with his Bipolar Disorder that have prevented him from fulfilling any major life or job responsibilities. Transcript of Hearing (Tr.) at 86, 93. The Individual reported in his PSI that he would become a “raging animal” if taken off his medication. Ex. 11 at 22. In the three months prior to the date of the hearing, the Individual had periods where he has experienced at least one period of increased “irritation” that he believes can be called a manic episode. Tr. at 87.

The DOE Psychiatrist examined the Individual in May 2007. The DOE Psychiatrist stated in her Report that the Individual acknowledged that he had episodes of “sustained irritability” along with other symptoms such as racing thoughts, grandiosity and increased goal directed activity. Ex. 6 at 25. She found that the Individual met the DSM-IV-TR criteria for “Manic Episode” and “Major Depressive Episode” for nearly every day in a one-week period and that his most recent episode of disturbance was manic. Consequently, she diagnosed the Individual as suffering from “Bipolar Disorder Type I, most recent episode manic.” Ex. 6 at 25. She also gave her opinion that until the Individual had shown “sustained prolonged stability” of his Alcohol and Cannabis Dependencies as well as his Bipolar Disorder, she would have to conclude that the Individual had a mental illness that could cause a significant defect in judgment and reliability. Ex. 6 at 27.

IV. ANALYSIS

The diagnosis by the DOE Psychiatrist in her Report that the Individual suffers from Bipolar Disorder, Alcohol Dependence and Cannabis Dependence provides sufficient evidence upon which the LSO could invoke Criteria H and J. The Criterion K derogatory information regarding the Individual’s use of marijuana was obtained directly from the Individual and is well substantiated in the record. Consequently, the LSO had more than sufficient evidence to support invoking this Criterion as well. The potential security concerns raised by intoxication from alcohol or marijuana are well known. For example, an individual may reveal classified information while intoxicated and may not even be aware of committing a security violation. *See Personnel Security Hearing* (Case No. VSO-0063), 25 DOE ¶ 82,789 (1996). The security concern raised by a diagnosis of Bipolar Disorder is well stated by the DOE Psychiatrist in her Report: “[B]ipolar disorder, especially in the presence of manic or mixed episodes, predisposes an individual to impulsive behavior and poor judgment caused by inability to control thought processes.” Ex. 6 at 27.

The Individual seeks to resolve and mitigate these security concerns by challenging the diagnoses of Alcohol and Cannabis Dependence, and by presenting his own evidence that he has not used alcohol and marijuana for a significant period of time. He also seeks to establish that his Bipolar illness is well in control and, as such, does not present a security concern. I will first consider the Criteria H and J concerns.

A. Criteria H and J⁶

1. Diagnosis of Alcohol and Cannabis Dependence

The Individual challenges the DOE Psychiatrist's findings with regard to both diagnoses of dependence based on the fact that most of the incidents occurred approximately 26 years ago and should not be considered valid for that purpose. Tr. at 69-70. This is especially so since the QNSP only asks about conduct from 10 years from the date of filling out the form. Ex. 9 at 4. The Individual also challenged some of the factual findings made by the DOE Psychiatrist. He denies informing the DOE Psychiatrist that he gave up family time to consume alcohol or that he fought frequently with his wife concerning his alcohol consumption. Ex. 9 at 3. He also denies being advised to give up alcohol by any medical professional. Ex. 9 at 3.

The Individual also has submitted a written statement from the Treating Psychiatrist. In his statement, the Treating Psychiatrist gives the following analysis of the Individual's use of marijuana and alcohol:

Between the ages of 16 and 18 he admits to using alcohol and marijuana, but [the Individual] states that he has been free of abusing substances since age 21. He occasionally will drink alcohol on the weekends by self report. He grew up in the mining town of . . . and his substances use was the result of his self medication. I do not see substance abuse or chemical dependency as a major issue.

Ind. Ex. A at 1. The Individual has also offered his own testimony stating that he has not used marijuana since July 2006 and has not used alcohol since February 2007. Tr. at 80; Ex. 11 at 76. This was motivated by the realization that use of marijuana was interfering with his treatment program for Bipolar Disorder. Tr. at 80-81. He currently has no craving for marijuana but admits to occasionally wanting a beer on a Friday night. Tr. at 82. He has not entered into any treatment program for alcohol misuse. Tr. at 105.

At the hearing, the Individual admitted to believing he might have been developing a problem with alcohol early in his life but did not believe that it was an "existing issue." Tr. at 85. His belief that he did not have an alcohol problem in the past is, in his view, reinforced by the fact that he was able to quit consuming alcohol for a period of four years. Tr. at 83-84. He also never believed that he had a problem with marijuana, since he believed that he could stop smoking it at any time. Tr. at 83. As a result of the testimony he heard at the hearing, the Individual testified that he may reconsider whether he needs to receive treatment for an alcohol disorder. Tr. at 105. The Individual asserted that he is committed to continuing not using marijuana and alcohol because of his desire to maximize the effectiveness of his Bipolar Disorder medication. Tr. at 81, 104-06.

⁶ Because Criterion H refers to derogatory information indicating that a person has a mental illness that could cause a defect in judgment and reliability, both the Individual's diagnoses of Alcohol Dependence and Cannabis Dependence are of concern under Criterion H. The Individual's diagnosis of Alcohol Dependence is the concern under Criterion J, which refers to information relating to the habitual misuse of alcohol or a diagnosis of an alcohol abuse or dependence.

At the hearing, the DOE Psychiatrist testified as to her findings and the diagnoses contained in the Report. With regard to her diagnoses of alcohol and cannabis dependence, the DOE Psychiatrist testified that the Individual's lack of education and treatment for these disorders, along with his failure to internalize the fact that he has a problem with these substances put him at increased risk for a relapse. Tr. at 44. According to the DOE Psychiatrist, if the Individual had a relapse of his substance dependence disorders, it could negate the effect of his current regime of medications for his Bipolar Disorder. Tr. at 45.

After considering all of the evidence presented to me, I cannot conclude that as of this time the Individual has mitigated the security concern raised by the diagnoses of Alcohol and Cannabis Dependence. The factual discrepancies the Individual alleges are relatively minor and do not cause me to doubt the DOE Psychiatrist's diagnoses. Nor does the Individual's challenge to the propriety of the DOE Psychiatrist referencing events over 20 years in the past in making her diagnoses persuade me that she is incorrect. In this regard, there is no expert testimony in the record that indicates that the DOE Psychiatrist's consideration of such incidents was improper. I found the DOE Psychiatrist's testimony convincing regarding her diagnoses that the Individual concurrently suffers from Alcohol and Cannabis Dependence notwithstanding the Individual's current significant periods of abstinence from alcohol and marijuana. The Individual's Treating Psychiatrist was less convincing on this issue, given the limited information presented regarding the Individual's history of alcohol and marijuana use and lack of a detailed opinion regarding whether the Individual has a substance dependence problem. In this regard, because I was unable to question the Treating Psychiatrist, I have given his written statement somewhat less weight than the expert testimony offered at the hearing.

I find the Individual's testimony credible on the issue of his current periods of abstinence from marijuana and alcohol. My finding on this issue is supported by the DOE Psychiatrist's testimony that she found that the Individual provided candid answers concerning his condition during the hearing. Tr. at 116. However, the lack of formal treatment for his substance disorders and his limited acceptance of the substance dependence diagnoses lead me to believe that the potential risk for relapse is too high at this time.⁷ Further, a relapse in one of these disorders could exacerbate his Bipolar Disorder. *See infra*.

⁷ In her Report, the DOE Psychiatrist stated that, to show sufficient evidence of rehabilitation from substance dependence, the Individual would have to participate in a program such as Alcoholics Anonymous or Narcotics Anonymous for 100 hours with a sponsor (or complete 50 hours in a professionally led substance abuse treatment program) and be abstinent from alcohol or illegal drugs for a period of two years. Alternatively, to show reformation (in the absence of participating in the treatment programs described above), the Individual would have to abstain from alcohol and illegal drugs for a period of three years. Ex. 6 at 26-27.

2. Diagnosis of Bipolar Disorder

The Individual does not challenge the DOE Psychiatrist's diagnosis of Bipolar Disorder.⁸ However, the Individual does believe that his sustained ability to successfully manage his Bipolar Disorder resolves any security concern arising from this diagnosis. The Individual testified that, in terms of managing his Bipolar Disorder, it is vital for him to maintain a constant routine with regard to taking his medication and making decisions. Tr. at 89, 102. Further, the Individual asserts that he is "getting better" at contacting the Treating Psychiatrist when his symptoms start to increase instead of just waiting for the symptoms to go away. Tr. at 101. When the Individual feels that he is entering a manic state, he is very careful to use his wife as a "reality check" with regard to any decisions or plans he may make while in that state. Tr. at 90-91. The Individual also testified that, even when his illness was not well controlled, it never prevented him from fulfilling a major employment-related responsibility. Tr. at 93.

In his written statement, the Treating Psychiatrist diagnosed the Individual as suffering from "Rapid-Cycling Bipolar II Disorder." Ind. Ex. A at 1. He reported that the Individual has not engaged in excessive gambling, spending money, nor exhibited risky or foolish behaviors. The Treating Psychiatrist reports that the Individual has not been absent from work "for more than two days out of the year" and has been very "cooperative and active" in managing his Bipolar Disorder. Ind. Ex. A at 1. The Treating Psychiatrist gave his opinion that the Individual has not "exhibited mania that has endangered his work or judgment." Ind. Ex. A. at 1.

At the hearing, the DOE Psychiatrist testified as to her diagnosis of Bipolar I Disorder and confirmed the findings she made in the Report. After listening to the Individual's testimony, she stated that her opinion had not changed regarding the Individual's condition. Tr. at 116. She believed the Individual had provided candid answers about his condition and she was encouraged that he expressed a willingness to reconsider his attitude regarding the other diagnoses of Alcohol and Cannabis Dependence. Tr. at 116. She also gave her opinion that the Individual might also benefit from individual psychotherapy. Tr. at 107-08.

After reviewing all of the evidence the evidence in the record, I find that the Individual has failed to resolve the security concerns raised by his Bipolar Disorder. The Individual's testimony and the written statement from the Treating Psychiatrist presents credible evidence that he is able to manage this illness. The Individual has significant insight as to the nature of his disorder and the importance of his maintaining his medication regime. However, the Individual did have a hospitalization for suicidal thoughts as recently as January 2006. While the Individual believes he is getting better in this regard, he was candid concerning his ability to get professional help when going into a manic phase: "I like to pretend I'm self-sufficient, and 'pretend' is a word I use on purpose. . . . [s]o I won't call my doctor as frequently as I should" Tr. at 101. The

⁸ A number of the psychiatrists who treated the Individual had slightly differing Bipolar Disorder diagnoses, such as "Bipolar Disorder, most recent episode mixed" and "Bipolar II Disorder." Tr. at 22-23. The DOE Psychiatrist diagnosed the Individual as "Bipolar Disorder I" based on the fact that once a person experiences an episode of mania, he or she must be diagnosed with Bipolar I Disorder. Tr. at 24-25. However, the Individual's Treating Psychiatrist, in his written statement, diagnosed the Individual with "Rapid Cycling Bipolar II Disorder." Ind. Ex. A. While the criteria of the DSM-IV-TR would support the DOE Psychiatrist's diagnosis of Bipolar I Disorder, *see* DSM-IV-TR at 382, the difference in the various diagnoses are not material to my decision regarding whether the Individual has resolved the security concerns related to the diagnosis of Bipolar Disorder.

Individual's testimony creates some doubt as to his ability to promptly receive professional care whenever drifting into a manic state. More importantly, the fact that the Individual's substance dependence issues are not fully resolved presents an increased risk of a relapse of the Individual's Bipolar illness. *See* Tr. at 45-46 (DOE Psychiatrist testimony that relapse of alcohol or marijuana use could "negate the effects" of his Bipolar Disorder medication); Tr. at 49 (DOE Psychiatrist testimony that presence of alcohol and cannabis dependence makes prognosis for Bipolar Disorder "more risky."). I find the DOE Psychiatrist's testimony on the Individual's condition more persuasive than the Treating Psychiatrist's written statement, given the somewhat limited information provided in the statement. In sum, I cannot find at this time that the Individual has sufficiently resolved the concerns raised by the diagnosis of Bipolar Disorder.

3. Summary of Findings Regarding Criteria H and J Concerns

In the six years since the diagnosis of his Bipolar Disorder, the Individual has made commendable efforts in managing his illness. However, I do not believe that he can be considered either rehabilitated or reformed from his substance dependence disorders as of the date of this opinion. Further, given the unresolved concurrent substance dependence disorders, the relatively limited time from his hospitalization in 2006, and the testimony of the DOE Psychiatrist, I cannot find that the Individual's Bipolar Disorder is sufficiently resolved to allow a recommendation of granting the Individual a clearance. Consequently, I find that the Individual has not resolved the security concerns under Criteria H and J.

B. Criterion K

The security concern regarding the Criterion K derogatory information arises from the Individual's admitted purchase and at times extensive use of marijuana.

The record indicates that the Individual has a significant history of marijuana use. In his QNSP, the Individual admitted using marijuana approximately 200 times from 2000 to 2006. Ex. 10 at 28; *see* Ex. 11 at 70. He used marijuana in part to self-medicate his Bipolar illness. Ex. 11 at 74; Tr. at 76. At the hearing, the Individual testified that, as of July 2006, he stopped using marijuana, motivated by his realization that marijuana use was adversely affecting the efficacy of his medication for Bipolar Disorder. Tr. at 80-81. The Individual also affirmed his commitment to continuing not using marijuana. Tr. at 81, 104-06.

According to the hearing testimony, the Individual has approximately 18 months of abstinence from marijuana. However, as mentioned above, the Individual has been diagnosed as suffering from Cannabis Dependence and has not undertaken any treatment program for this condition. To the extent that the Individual's disregard of illegal drug laws was motivated by his attempts to self-medicate his Bipolar Disorder or were a manifestation of his Cannabis Dependence, I do not have sufficient assurance that he will not relapse in the future. Consequently, I do not find that the Criterion K concerns have been resolved.

V. CONCLUSION

As explained above, I find that the Individual has not resolved the security concerns under Criteria H and J relating to the Individual's diagnoses of Bipolar Disorder, Alcohol and Cannabis Dependence, and under Criteria K, relating to the Individual's admitted use of marijuana. I therefore cannot conclude that granting the Individual an access authorization at this time "would not endanger the common defense and security and would be clearly consistent with the national interest." 10 C.F.R. § 710.7(a). Consequently, the Individual's access authorization application should be denied. The parties may seek review of this Decision by an Appeal Panel under the regulations set forth at 10 C.F.R. § 710.28.

Richard A. Cronin, Jr.
Hearing Officer
Office of Hearings and Appeals

Date: April 25, 2008

Concurrence

hg-03 rac 2/11/08

Cronin _____